

TO: Mayor, City Council and City Manager

FROM: Ronald Jones

DATE: March 31, 2016

SUBJECT: Recommendation from Planning Commission Variance Request
Chad and Sarah Badeaux; Case File Number 2016-00037

At its regular meeting on Tuesday, March 22, 2016, the Planning and Zoning Commission voted to approve the variance request as petitioned. Please see the attached staff report.

Chad and Sarah Badeaux has filed an application requesting a rear yard variance from the Zoning Ordinance (Article 4.6.5 E iii) to allow the construction of a covered patio within 8' of the northwest property line.

The property address is 68233 Diamondhead Drive East. The tax parcel number is 067R-1-36-075.000. The property is located west of and adjacent to Diamondhead Drive East and north of and adjacent to Aumoae Court. The property is located in an R-2 zoning district. The rear yard setback required is 20'.

attachment



City of Diamondhead

5000 Diamondhead Circle, Diamondhead, MS 39525

Phone: (228) 222.4626

FAX: (228) 222-4390

www.diamondhead.ms.gov

STAFF REPORT TO CITY COUNCIL

DATE: March 31, 2016

CASE FILE NUMBER: 2016-00037

APPLICANT: Chad and Sarah Badeaux

PROPERTY OWNER: Chad and Sarah Badeaux

TAX PARCEL NUMBER: 067R-1-36-075.000

PHYSICAL STREET ADDRESS: 68233 Diamondhead Drive East

LEGAL DESCRIPTION: Diamondhead Phase 2, Unit 5, Block 7, Lot 12

ZONING DISTRICT: R-2 Medium Density Single Family

TYPE OF APPLICATION: Variance

NATURE OF REQUEST: Chad and Sarah Badeaux has filed an application requesting a rear yard variance from the Zoning Ordinance (Article 4.6.5 E iii) to allow the construction of a covered patio within 8' of the northwest property line.

The property address is 68233 Diamondhead Drive East. The tax parcel number is 067R-1-36-075.000. The property is located west of and adjacent to Diamondhead Drive East and north of and adjacent to Aumoae Court. The property is located in an R-2 zoning district. The rear yard setback required is 20'.

DATE OF PUBLIC HEARING BEFORE PLANNING COMMISSION: March 22, 2016

RECOMMENDATION TO CITY COUNCIL: To **approve** the variance as petitioned; Commissioners voted 5 ayes and 0 nay with 2 absent (Miller and Bower).

Article 2.6.7 Legislative Disposition

- A. The action by the Planning Commission related to variance applications shall be a recommendation to the Mayor and City Council. The Mayor and City Council shall examine all such applications, reports, and recommendations transmitted to it and shall take further action as it deems necessary and

desirable to approve, disapprove, modify, or remand to the Planning Commission for further considerations. No land or structure for which the application for variance has been denied shall be considered again for the same variance request for at least one (1) year from the date such application was denied.

- B. The owner, agent, or lessee of property that requested a variance and subsequently was granted said variance by the Mayor and City Council must secure a building permit or certificate of zoning compliance within one (1) year of the variance being granted, or said variance will expire.

ATTACHMENTS: Application

Draft of Minutes



MINUTES

PLANNING AND ZONING COMMISSION
Diamondhead, Mississippi
Diamondhead City Hall Council Chambers
March 22, 2016
5:30 p.m. CST

1. Chairman Malley called the meeting to order at 5:31 p.m. CST.
2. Commissioner Hensley recited the Statement of Purpose.
3. Pledge of Allegiance was led by Commissioner Garrison.
4. Clerk Tammy Garber called roll. Present: Commissioners Bice, Garrison, Hensley, Malley, and Crosby. Absent: Commissioner Miller and Bower.

Also present: City Attorney Derek Cusick, Ron Jones Building Official and Minutes Clerk Tammy Garber.

5. **Confirmation of the Agenda**

Commissioner Hensley moved, seconded by Commissioner Garrison, to approve the agenda with Case File 2016-00008 tabled.

Ayes: Bice, Hensley, Crosby, Garrison and Malley. Nays: None. Absent: Miller and Bower.

MOTION CARRIED UNANIMOUSLY

6. **Approve Minutes.** - Commissioner Malley moved, seconded by Commissioner Bice, to approve the Minutes of February 24, 2016 as presented.

Ayes: Bice, Hensley, Crosby, Garrison and Malley. Nays: None. Absent: Miller and Bower.

MOTION CARRIED UNANIMOUSLY

7. **New Business –**

Case File Number 2016-00008

Chairman Malley explained this Case File has been postponed until the April 26, 2016 meeting and advised that anyone who would like to speak at that meeting should be there. Chairman Malley also made a concession to hear public comments for those who cannot be at the April meeting and at this time.

Reid Parker, address is #3 Whispering Branch, which is directly across the street from proposed project spoke in opposition of the JCE Properties proposal.

Robert Harko, address is #2 Fox Trot presented and read a letter in opposition of the JCE Properties proposal.

Sharon Settle address is #6 Quail Creek spoke in opposition of the JCE Properties proposal.

Laura Colavita address is #6 Fox Trot spoke in opposition of the JCE Properties Proposal.

Wendy Hatchett address is #4 Fox Trot spoke in opposition of the JCE Properties Proposal.

Chairman Malley called for other public comments on the matter with none presented.

Commissioner Bice moved, seconded by Hensley to table the Case File Number 2016-00008.

Ayes: Bice, Hensley, Cosby and Malley. Nays: Garrison. Absent: Miller and Bower.

MOTION CARRIED UNANIMOUSLY

• CASE FILE NUMBER 2016-00036

Ted and Amy Longo have filed an application requesting 3 variances from the Zoning Ordinance (Article 4.18.3 D ii) to allow the construction of an outdoor kitchen totaling 576 sf; to construct an outdoor kitchen having a total height of 16.67'; and to construct a storage building totaling 432 sf.

The property address is 799 Ewa Street. The tax parcel number is 067R-2-36-029.000. The property is located west of and adjacent to Ewa Place and north of and adjacent to Ewa Street. The property is located in an R-2 zoning district. The maximum square feet of an accessory structure is 144 sf. The maximum height is 15'. The Case File Number is 201600036.

Jonathan Rush, contractor, presented proposed variance request and answered questions from the commissioners. At this time Commissioner Malley ask if anyone had any questions or comments to be presented in reference to variance request. Howard Behncostel (neighbor of this property) spoke in opposition of the variance request.

Commissioner Bice moved, seconded by Commissioner Crosby to approve the variance in the matter of Case File Number 2016-00036 as requested.

Ayes: Bice, Hensley, Cosby and Malley. Nays: Garrison. Absent: Miller and Bower.

MOTION CARRIED UNANIMOUSLY

CASE FILE NUMBER 2016-00037

Chad and Sarah Badeaux has filed an application requesting a rear yard variance from the Zoning Ordinance (Article 4.5.6 E ii) to allow the construction of a covered patio within 8' of the northwest property line.

The property address is 68233 Diamondhead Drive East. The tax parcel number is 067R-1-36-075.000. The property is located west of and adjacent to Diamondhead Drive East and north of and adjacent to Aumoe Court. The property is located in an R-2 zoning district. The rear yard setback required is 20'. The Case File Number is 201600037.

Sarah Badeaux presented proposed variance request and answered questions from the commissioners with no objections from the public.

Al Corbin, adjacent property owner, spoke in favor of the variance request.

Commissioner Garrison moved, seconded by Commissioner Bice to approve the variance in the matter of Case File Number 2016-00037 as requested.

Ayes: Bice, Hensley, Cosby, Garrison and Malley. Nays: None. Absent: Miller and Bower.

MOTION CARRIED

8. Unfinished Business Open Public Comments to Non-Agenda items –None

9. Commissioners' Comments – None

10. Communication / Announcements.

Chairman Malley announced his resignation as Planning and Zoning Commissioner effective immediately following this meeting.

Ron Jones announced there will be 3 cases next month. The JCE Properties and 2 cases for variance request.

11. Adjourn - Commissioner Hensley moved, seconded by Commissioner Bice, to adjourn at approximately 6:27 p.m. CST.

A roll call vote was taken as follows:

Ayes: Bice, Hensley, Cosby, Garrison and Malley. Nays: None. Absent: Miller and Bower.

MOTION CARRIED

David Malley, Chairman
Planning & Zoning
City of Diamondhead, MS

City of Diamondhead
5000 Diamondhead Circle
Diamondhead, MS 39525



Office 228-222-4626
Fax 228-222-4390
www.Diamondhead.ms.gov

APPLICATION FOR VARIANCE REQUEST

RECEIVED
FEB 12 2016

BY: _____

CASE NO. 2016 00037

DATE Feb. 12, 2016

APPLICANT: Chad and Sarah Badeaux

APPLICANT'S ADDRESS: 1682 Aumcoe Court

APPLICANT'S TELEPHONE: (HOME) ^{Sarah} 228-223-5290 (WORK) ^{Chad} 228-223-5291

PROPERTY OWNER: Chad and Sarah Badeaux

MAILING ADDRESS: 1682 Aumcoe Court

TELEPHONE NUMBER: (HOME) 228-223-5291 (WORK) 228-223-5290

TAX ROLL PARCEL NUMBER: 067R-1-36-075.000

STREET ADDRESS OR LEGAL DESCRIPTION OF PROPERTY: LOT 12, BLK 7
PHASE #2 UNIT #5
68233 DIAMONDHEAD DR. EAST

STATE PURPOSE OF VARIANCE: (FRONT/SIDE/REAR/LOT SIZE/PARKING/BUILDING)

COVERAGE) (SIGNAGE - SIZE - HEIGHT) VARIANCE TO BUILD OPEN
COVERED PATIO WITH 8' FROM BACK PROPERTY LINE.

ZONING DISTRICT R-2

Chad and Sarah Badeaux

Request for Variance
68233 Diamondhead Drive East

1. Do the special conditions and/or circumstances exist which affect only the land or structure in question and no other surrounding or similar properties?

Our property is a corner lot that sits on the corner of Aumoae Court and Diamondhead Dr. East. As a result, it has 20' set backs on 3 sides. Our Back Property Line is adjacent to our neighbor's Side Property Line. To protect a Large Magnolia Tree, we must set our house such that the Open Patio in Back would have to be within 8' of the Back Property Line.

2. Would literal interpretation of the zoning ordinance deprive the owner/applicant of rights commonly enjoyed by other properties in the same zoning district?

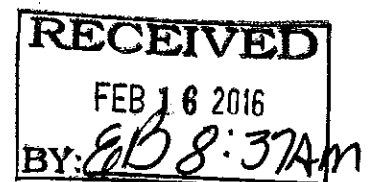
Yes. Because of the Large Protected Magnolia and POA covenants that Boats can not be kept in drive ways. We have a 20' boat that we'd like to keep in covered storage for our 2 sons and abide by the POA rules.

3. Are the special conditions or circumstances not caused by the owner/applicant?

No. POA covenants prevent us from keeping a Boat in the driveway and Magnolia Tree was not Removed as per City of Diamondhead Clearing Permit.

4. Would the requested variance not give the owner/applicant any special privileges or rights not shared by owners of similar properties?

No. Adjacent property owners have already agreed to this request and We signed that we would not remove the Magnolia when we got the Clearing Permit from the City of Diamondhead.



Prepared by & return to:
Preston J. Mauffray (MSB #101131)
Landmark Title & Escrow Co., Inc.
521 Ulman Ave.
Bay St. Louis, MS 39520
Telephone: (228) 467-4675
Facsimile: (228) 467-4656
File No.: Deeds 2015

INDEX: Lot 12, Blk. 7, Unit 5, DIAMONDHEAD, Ph. 2, Hancock Co., MS.

STATE OF MISSISSIPPI
COUNTY OF HANCOCK

WARRANTY DEED

FOR AND IN CONSIDERATION of the sum of Ten Dollars (\$10.00) cash in hand paid, and other good and valuable consideration not necessary to be mentioned herein, the receipt and sufficiency of all of which is hereby acknowledged,

ALTON L. CORBAN AND SYLVIA J. CORBAN, Grantors
682 Aumoe Ct., Diamondhead, MS 39525
(228) 467-1212

do hereby sell, convey and warrant unto

CHAD JOSEPH BADEAUX AND SARAH JANE BADEAUX, Grantees
682 Aumoe Ct., Diamondhead, MS 39525

228) 223 - 5290

as joint tenants with full rights of survivorship and not as tenants in common, the following described land and property situated in Hancock County, Mississippi, to wit:

Lot 12, Block 7, Unit 5, DIAMONDHEAD, Phase 2, according to the map or plat thereof recorded in Plat Book 4, at Page 37-40, inclusive in the Office of the Chancery Clerk of Hancock County, Mississippi.

Together with all and singular the rights, privileges, improvements and appurtenances to the same belonging or in any wise appertaining.

TITLE SEARCH NEITHER REQUESTED NOR PERFORMED

This conveyance is made subject to any and all prior reservations, restrictions, easements, exceptions, covenants and conditions of record, including any mineral, oil or gas reservations and any covenants or restrictions which appear of record.

If bounded by water, the warranty granted herein shall not extend to any part of the above described property which is tideland or coastal wetlands as defined in the Mississippi Coastal Wetlands Protection Act and this conveyance includes any natural accretion and is subject to any erosion due to the action of the elements.

The Grantors herein certify that the property hereinabove conveyed forms no part of the homestead of said Grantors.

It is agreed and understood that the taxes for the current year have been prorated as of this date on an estimated basis, and that when said taxes are actually determined, if the proration as of this date is incorrect, the parties herein agree to pay on a basis of an actual proration. All subsequent years taxes are specifically assumed by Grantees herein.

WITNESS our signatures, this the 30 day of OCTOBER, 2015.

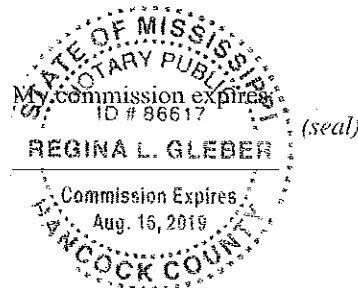

ALTON L. CORBAN


SYLVIA J. CORBAN

State of Mississippi

County of Hancock

PERSONALLY APPEARED before me, the undersigned authority in and for the said county and state, on this 30th day of October, 2015, within my jurisdiction, the within named **ALTON L. CORBAN AND SYLVIA J. CORBAN**, who acknowledged that they signed and delivered the foregoing instrument of writing on the day and year therein mentioned.

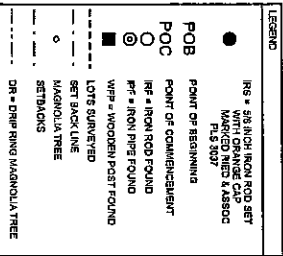



NOTARY PUBLIC

TITLE SEARCH NEITHER REQUESTED NOR PERFORMED

PARCEL 0- LAND LOCATED IN THE DIAMONDHEAD SUBDIVISION,
LOT 12, BLOCK 7, UNIT 5, PHASE 2, IN THE CITY OF
DIAMONDHEAD, HANCOCK COUNTY MISSISSIPPI.
BEING MORE PARTICULARY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF
DIAMONDHEAD SUBDIVISION IN THE CITY OF
OF LOT 11, BLOCK 7, UNIT 5, PHASE 2 OF THE
DIAMONDHEAD SUBDIVISION IN THE CITY OF
THESE: S47°31'45"E FOR 167.51 FEET TO A IRON ROD
AT THE WESTERLY MARGIN OF DIAMONDHEAD DRIVE
IRON ROD
THESE: N24°31'45"E FOR 167.51 FEET TO A IRON ROD
AT THE WESTERLY MARGIN OF DIAMONDHEAD DRIVE
IRON ROD
THESE: S43°40'19"W FOR 57.63 FEET ALONG THE
WESTERLY MARGIN OF DIAMONDHEAD DRIVE EAST
TO A IRON ROD
THESE: S34°14'31"W FOR 49 FEET ALONG THE WESTERLY
MARGIN OF DIAMONDHEAD DRIVE EAST TO A IRON ROD
THESE: S78°18'24"W FOR 34.2 FEET ALONG THE LONG
CORNER OF PARCEL 114850 SQUARE FEET TO THE
35.55 FEET TO A IRON ROD
THESE: N67°31'13"W FOR 70.22 FEET ALONG THE
NORTHERLY MARGIN OF PARCEL 114850 SQUARE FEET
TO THE POINT OF BEGINNING SAID PARCEL CONTAINS 114850 SQUARE FEET
OR LESS.



SURVEY IS VALID ONLY IF PLAT HAS ORIGINAL SEAL AND SIGNATURE OF THE SURVEYOR

IN CONSIDERATION OF A FEE PAID I DECLARE THAT THIS SURVEY WAS DONE BY ME OR UNDER MY IMMEDIATE SUPERVISION AND IS CORRECT TO MY PROFESSIONAL

THIS SURVEY MEETS THE MISSISSIPPI
MINIMUM STANDARDS FOR A CLASS
B SURVEY

THIS IS BASED ON INFORMATION PROVIDED BY THE CLIENT. SURVEYOR HAS MADE NO INVESTIGATION OR INDEPENDENT SEARCH. EASEMENTS OF RECORD, ENCUMBRANCES, RESTRICTIVE COVENANTS, OWNERSHIP OF TITLE EVIDENCE, OR ANY OTHER FACTS THAT A CURRENT TITLE SEARCH MAY DISCLOSE

NO ATTEMPT HAS BEEN MADE AS PART OF THIS BOUNDARY SURVEY TO OBTAIN SHOW DATA CONCERNING THE EXISTENCE, SIZE, DEPTH, CONDITION OR LOCATION OF ANY UTILITY OF PUBLIC SERVICE UTILITY

ALL BEARINGS SHOWN ARE GRID
GEICD 12AUS
CONVERGENCE ANGLE -0°15'36"
SCALE FACTOR 0.9999801
STATE PLANE ZONE MS EAST



1. DEED BOOK 2005 PAGE 2792
2. DEED BOOK BB215 PAGE 343
3. DEED BOOK AA17 PAGE 584
4. PLAT OF DIAMONDHEAD SUBDIVISION
BLOCK 7 UNIT 5 ON FILE AT ON FILE
HANCOCK COUNTY CHANCERY
CLERKS OFFICE
5. HANCOCK COUNTY TAX MAP 067R

**RIED & ASSOCIATES LLC
9526 BENESHEEWAH TRAIL
PASSCHRISTIAN MS 39571
PHONE 228 205-4007**



SURVEY OF LOT 12, DIAMONDHEAD SUBDIVISION, LOT 12, BLOCK 7, UNIT 5, PHASE 2, IN THE CITY OF DIAMONDHEAD, HANCOCK COUNTY, MISSISSIPPI			
SCALE 30 FT/IN	SURVEY DATE 02/04/16	DRAWN BY DER	
JOB 16-014	DRAWING DATE 02/10/16	CHECKED BY MSR	

BACK
PROPERTY
LINE

HARD BOARD FASCIA

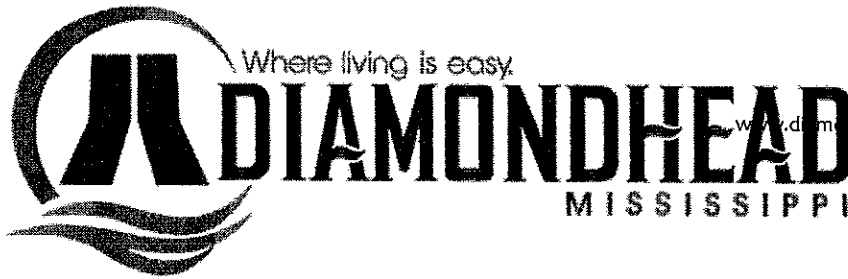
3/4 X 8 IN. 4" BED MOULD

PROPOSED
COVERED OPEN
BATHING
BOATSLIP AGE

12

LEFT SIDE ELEVATION

SCALE 1/4"=1'



Agenda Item 2016-061

5000 Diamondhead Circle · Diamondhead, MS 39525-3260

Phone: 228.222.4626 Fax: 228-222-4390

TO: Mayor, City Council and City Manager *CR*
FROM: Ronald Jones *Ronald*
DATE: March 31, 2016
SUBJECT: Recommendation from Planning Commission Variance Request
Ted and Amy Longo; Case File Number 2016-00036

At its regular meeting on Tuesday, March 22, 2016, the Planning and Zoning Commission voted to approve the variance request as petitioned. Please see the attached staff report.

Ted and Amy Longo have filed an application requesting 3 variances from the Zoning Ordinance (Article 4.18.3 D ii) to allow the construction of an outdoor kitchen totaling 576 sf; to construct an outdoor kitchen having a total height of 16.67'; and to construct a storage building totaling 432 sf.

The property address is 799 Ewa street. The tax parcel number is 067R-2-36-029.000. The property is located west of and adjacent to Ewa Place and north of and adjacent to Ewa Street. The property is located in an R-2 zoning district. The maximum square feet of an accessory structure is 144 sf. The maximum height is 15'.

attachment



City of Diamondhead

5000 Diamondhead Circle, Diamondhead, MS 39525

Phone: (228) 222-4626

FAX: (228) 222-4390

www.diamondhead.ms.gov

STAFF REPORT TO CITY COUNCIL

DATE: March 31, 2016

CASE FILE NUMBER: 2016-00036

APPLICANT: Ted and Amy Longo represented by Jonathan Rush

PROPERTY OWNER: Ted and Amy Longo

TAX PARCEL NUMBER: 067R-2-36-029.000

PHYSICAL STREET ADDRESS: 797/799 Ewa Street

LEGAL DESCRIPTION: Diamondhead Phase 2, Unit 3, Block 1, Lot 43

ZONING DISTRICT: R-2 Medium Density Single Family

TYPE OF APPLICATION: Variance

NATURE OF REQUEST: Ted and Amy Longo have filed an application requesting 3 variances from the Zoning Ordinance (Article 4.18.3 D ii) to allow the construction of an outdoor kitchen totaling 576 sf; to construct an outdoor kitchen having a total height of 16.67'; and to construct a storage building totaling 432 sf.

The property address is 799 Ewa street. The tax parcel number is 067R-2-36-029.000. The property is located west of and adjacent to Ewa Place and north of and adjacent to Ewa Street. The property is located in an R-2 zoning district. The maximum square feet of an accessory structure is 144 sf. The maximum height is 15'. The Case File Number is 201600036.

DATE OF PUBLIC HEARING BEFORE PLANNING COMMISSION: March 22, 2016

RECOMMENDATION TO CITY COUNCIL: To **approve** the variance as petitioned; Commissioners voted 4 ayes and 1 nay with 2 absent (Miller and Bower).

Article **2.6.7** **Legislative** **Disposition**

- A. The action by the Planning Commission related to variance applications shall be a recommendation to the Mayor and City Council. The Mayor and City

Council shall examine all such applications, reports, and recommendations transmitted to it and shall take further action as it deems necessary and desirable to approve, disapprove, modify, or remand to the Planning Commission for further considerations. No land or structure for which the application for variance has been denied shall be considered again for the same variance request for at least one (1) year from the date such application was denied.

- B. The owner, agent, or lessee of property that requested a variance and subsequently was granted said variance by the Mayor and City Council must secure a building permit or certificate of zoning compliance within one (1) year of the variance being granted, or said variance will expire.

ATTACHMENTS: Application

Draft of Minutes

Letters of Objection from DH POA Architectural Advisor dated 3-11-16



MINUTES

PLANNING AND ZONING COMMISSION
Diamondhead, Mississippi
Diamondhead City Hall Council Chambers
March 22, 2016
5:30 p.m. CST

1. Chairman Malley called the meeting to order at 5:31 p.m. CST.
2. Commissioner Hensley recited the Statement of Purpose.
3. Pledge of Allegiance was led by Commissioner Garrison.
4. Clerk Tammy Garber called roll. Present: Commissioners Bice, Garrison, Hensley, Malley, and Crosby. Absent: Commissioner Miller and Bower.

Also present: City Attorney Derek Cusick, Ron Jones Building Official and Minutes Clerk Tammy Garber.

5. **Confirmation of the Agenda**

Commissioner Hensley moved, seconded by Commissioner Garrison, to approve the agenda with Case File 2016-00008 tabled.

Ayes: Bice, Hensley, Crosby, Garrison and Malley. Nays: None. Absent: Miller and Bower.

MOTION CARRIED UNANIMOUSLY

6. **Approve Minutes.** - Commissioner Malley moved, seconded by Commissioner Bice, to approve the Minutes of February 24, 2016 as presented.

Ayes: Bice, Hensley, Crosby, Garrison and Malley. Nays: None. Absent: Miller and Bower.

MOTION CARRIED UNANIMOUSLY

7. **New Business –**

Case File Number 2016-00008

Chairman Malley explained this Case File has been postponed until the April 26, 2016 meeting and advised that anyone who would like to speak at that meeting should be there. Chairman Malley also made a concession to hear public comments for those who cannot be at the April meeting and at this time.

Reid Parker, address is #3 Whispering Branch, which is directly across the street from proposed project spoke in opposition of the JCE Properties proposal.

Robert Harko, address is #2 Fox Trot presented and read a letter in opposition of the JCE Properties proposal.

Sharon Settle address is #6 Quail Creek spoke in opposition of the JCE Properties proposal.

Laura Colavita address is #6 Fox Trot spoke in opposition of the JCE Properties Proposal.

Wendy Hatchett address is #4 Fox Trot spoke in opposition of the JCE Properties Proposal.

Chairman Malley called for other public comments on the matter with none presented.

Commissioner Bice moved, seconded by Hensley to table the Case File Number 2016-00008.

Ayes: Bice, Hensley, Cosby and Malley. Nays: Garrison. Absent: Miller and Bower.

MOTION CARRIED UNANIMOUSLY

• CASE FILE NUMBER 2016-00036

Ted and Amy Longo have filed an application requesting 3 variances from the Zoning Ordinance (Article 4.18.3 D ii) to allow the construction of an outdoor kitchen totaling 576 sf; to construct an outdoor kitchen having a total height of 16.67'; and to construct a storage building totaling 432 sf.

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Jonathan Rush, contractor, presented proposed variance request and answered questions from the commissioners. At this time Commissioner Malley ask if anyone had any questions or comments to be presented in reference to variance request. Howard Behncostel (neighbor of this property) spoke in opposition of the variance request.

Commissioner Bice moved, seconded by Commissioner Crosby to approve the variance in the matter of Case File Number 2016-00036 as requested.

Ayes: Bice, Hensley, Cosby and Malley. Nays: Garrison. Absent: Miller and Bower.

MOTION CARRIED UNANIMOUSLY

CASE FILE NUMBER 2016-00037

Chad and Sarah Badeaux has filed an application requesting a rear yard variance from the Zoning Ordinance (Article 4.5.6 E ii) to allow the construction of a covered patio within 8' of the northwest property line.

The property address is 68233 Diamondhead Drive East. The tax parcel number is 067R-1-36-075.000. The property is located west of and adjacent to Diamondhead Drive East and north of and adjacent to Aumoe Court. The property is located in an R-2 zoning district. The rear yard setback required is 20'. The Case File Number is 201600037.

Sarah Badeaux presented proposed variance request and answered questions from the commissioners with no objections from the public.

Al Corbin, adjacent property owner, spoke in favor of the variance request.

Commissioner Garrison moved, seconded by Commissioner Bice to approve the variance in the matter of Case File Number 2016-00037 as requested.

Ayes: Bice, Hensley, Cosby, Garrison and Malley. Nays: None. Absent: Miller and Bower.

MOTION CARRIED

8. Unfinished Business Open Public Comments to Non-Agenda items –None

9. Commissioners' Comments – None

10. Communication / Announcements.

Chairman Malley announced his resignation as Planning and Zoning Commissioner effective immediately following this meeting.

Ron Jones announced there will be 3 cases next month. The JCE Properties and 2 cases for variance request.

11. Adjourn. Commissioner Hensley moved, seconded by Commissioner Bice, to adjourn at approximately 6:27 p.m. CSI. .

A roll call vote was taken as follows:

Ayes: Bice, Hensley, Cosby, Garrison and Malley. Nays: None. Absent: Miller and Bower.

MOTION CARRIED

David Malley, Chairman
Planning & Zoning
City of Diamondhead, MS

City of Diamondhead
5000 Diamondhead Circle
Diamondhead, MS 39525



Office 228-222-4626
Fax 228-222-4390
www.Diamondhead.ms.
JCV

APPLICATION FOR VARIANCE REQUEST

CASE NO. 201600036

DATE FEB 10 2016

RECEIVED
BY: _____

APPLICANT: Ted & Amy Longo

APPLICANT'S ADDRESS: 799 Ewa St & 797 Ewa St (Currently Combined)

APPLICANT'S TELEPHONE: (HOME) 228-255-3887 (WORK) Cell 228-342-0683

PROPERTY OWNER: Ted & Amy Longo

MAILING ADDRESS: 799 Ewa Street

TELEPHONE NUMBER: (HOME) 228-255-3887 (WORK) Cell 228 342 0683

TAX ROLL PARCEL NUMBER: 067 R-2-36 -029.000

STREET ADDRESS OR LEGAL DESCRIPTION OF PROPERTY: 797 Ewa St.

STATE PURPOSE OF VARIANCE: (FRONT/SIDE/REAR/LOT SIZE/PARKING/BUILDING

COVERAGE) (SIGNAGE - SIZE - HEIGHT)

① To construct an outdoor kitchen totalling 576 sf. ② To construct an outdoor kitchen having a total height of 16.67'. ③ To construct a storage building totalling 432 sf.

ZONING DISTRICT

R-2

e-mail address: Longo_ta@yahoo.com

Applicant: Ted & Amy Longo

Representative: Jonathan Rush 228-263-4821 ①

STATEMENT OF UNDERSTANDING

As the applicant or owner/s for the requested Variance in the City of Diamondhead, I (we) understand the following:

The application fee of ^{100.00}~~\$500.00~~ must be paid prior to the acceptance of the application. Further, that if the application is withdrawn for any reason that the application fee is forfeited to the City of Diamondhead.

As the applicant or owner/s, I (we), or the designated representative, must be present at the public hearing.

That all information provided with this application is true and correct to the best of my knowledge.

That this application represents only property owned by me (us) and that any other adjoining property owners must apply for a Variance on his own behalf.

That all required attachments have been provided to the City of Diamondhead.

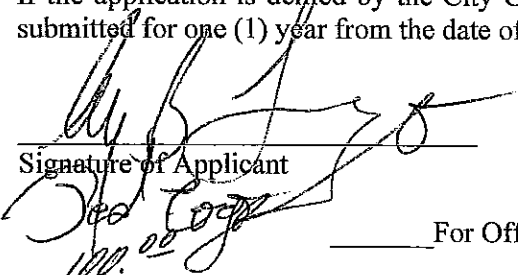
That additional information may be required by the Planning Commission prior to final disposition.

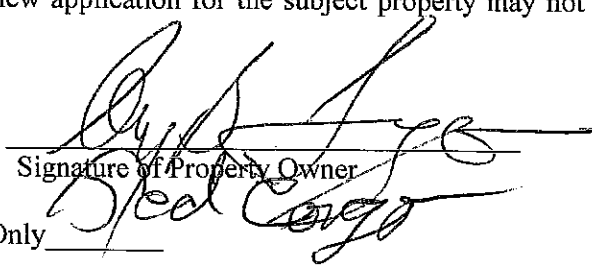
The City Council will not accept new case evidence once the recommendation has been made by the Planning Commission. If new evidence needs to be presented, the applicant will need to request that the matter be referred back to the Planning Commission for review.

The Public Hearing will be held on MARCH 22, 2016 at 530 p.m. in the Council Chambers of the Diamondhead City Hall.

If a continuance of the hearing is necessary at my (our) request, the request must be made to the Zoning Official a minimum of seven (7) days prior to the hearing. If such request is not made in writing, I understand that a new application must be filed and an application fee paid to the City.

If the application is denied by the City Council, a new application for the subject property may not be submitted for one (1) year from the date of denial.


Signature of Applicant


Signature of Property Owner

For Official Use Only

☐ \$500.00

☐ Copy of Deed, Lease or Contract

☐ Site Plan

☐ Parking Spaces

☐ List of Property Owners

☐ Application Signed

☐ Written Project Description

☐ Drainage Plan NA ()

☐ Notarized Statement NA ()

REQUIRED ITEMS:

- A. A statement describing the variance request and the reasons why it complies with the criteria for variances provided in Section 2.6.5, specifically...

THE CONDITIONS FOR GRANTING A VARIANCE:

- ① DO THE SPECIAL CONDITIONS AND/OR CIRCUMSTANCES EXIST WHICH AFFECT ONLY THE LAND OR STRUCTURE IN QUESTION AND NO OTHER SURROUNDING OR SIMILAR PROPERTIES?
- ② WOULD LITERAL INTERPRETATION OF THE ZONING ORDINANCE DEPRIVE THE OWNER/APPLICANT OF RIGHTS COMMONLY ENJOYED BY OTHER PROPERTIES IN THE SAME ZONING DISTRICT?
- ③ ARE THE SPECIAL CONDITIONS OR CIRCUMSTANCES NOT CAUSED BY THE OWNER/APPLICANT?
- ④ WOULD THE REQUESTED VARIANCE NOT GIVE THE OWNER/APPLICANT ANY SPECIAL PRIVILEGES OR RIGHTS NOT SHARED BY OWNERS OF SIMILAR PROPERTIES?

- omit (B) The property address and the name and mailing address of the owner of each lot within 300 feet of the subject property and a map with parcels keyed to the ownership and address data.

- C. Site plans, preliminary building elevation, preliminary improvement plans, or other maps or drawings, sufficiently dimensioned as required to illustrate the following, to the extent related to the variance application:

- i. Existing and proposed location and arrangement of uses on the site, and on abutting sites within 100 feet.
- ii. Existing and proposed site improvements, buildings, and other structures on the site, and any off-site improvements related to or necessitated by the proposed use. Building elevations shall be sufficient to indicate the general height, bulk, scale, and architectural character.
- iii. Existing and proposed topography, grading, landscaping, and screening, irrigation facilities, and erosion control measures.
- iv. Existing and proposed parking, loading, and traffic and pedestrian circulation features, both on the site and any off-site facilities or improvement related to or necessitated by the proposed use.
- v. The Zoning Administrator may request additional information necessary to enable a complete analysis and evaluation of the variance request, and determination as to whether the circumstances prescribed for the granting of a variance exist.
- vi. A fee established by the City Council shall accompany the application. A single application may include request for variances from more than one regulation applicable to the same site, or for similar variances on two or more adjacent parcels with similar characteristics.

- D. Payment of fee for Variance Request: ~~\$500.00~~ as per Ordinance 2012-020

100.00

address
individually
for each
variance

1. Do the special conditions and/or circumstances exist, which affect only the land or structure in question and no other surrounding or similar properties?

This variance request would only affect the current land owner.

2. Would literal interpretation of the zoning ordinance deprive the owner/applicant of rights commonly enjoyed by other properties in the same zoning district?

The interpretation of the ordinance states that we cannot have a structure that is more than 144 sq. ft. if it is not adjacent to the house. However, lot 30 (as shown on plot plan) has a structure that is not connected to the house and exceeds the 144 sq. ft. regulations.

3. Are the special conditions or circumstances not caused by the owner/applicant?

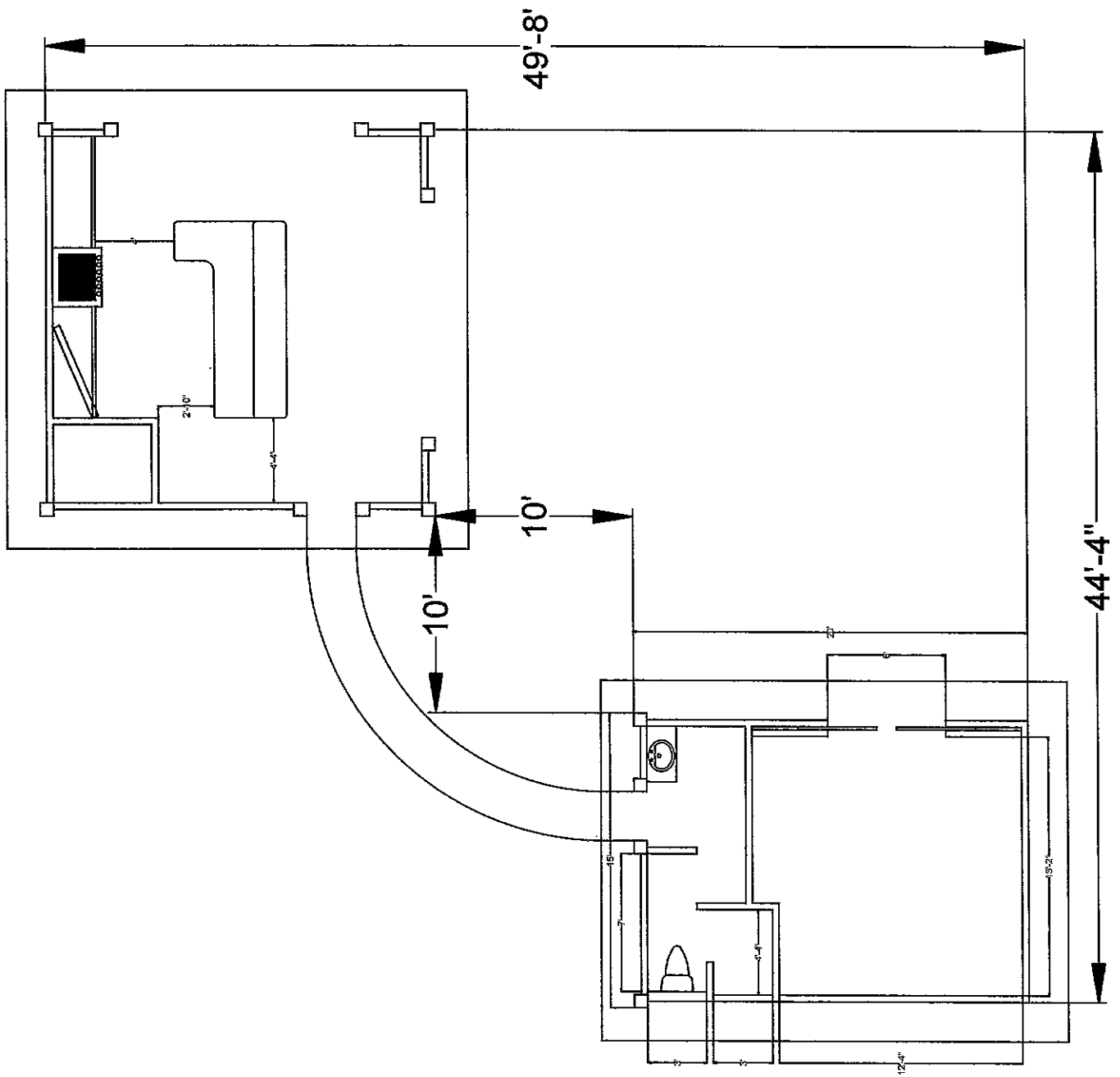
I purchased a piece of property in which a 2300 sq. ft. house was removed. The request is that I can build 2 structures on parcel 29 that would not exceed 1008 sq. ft.

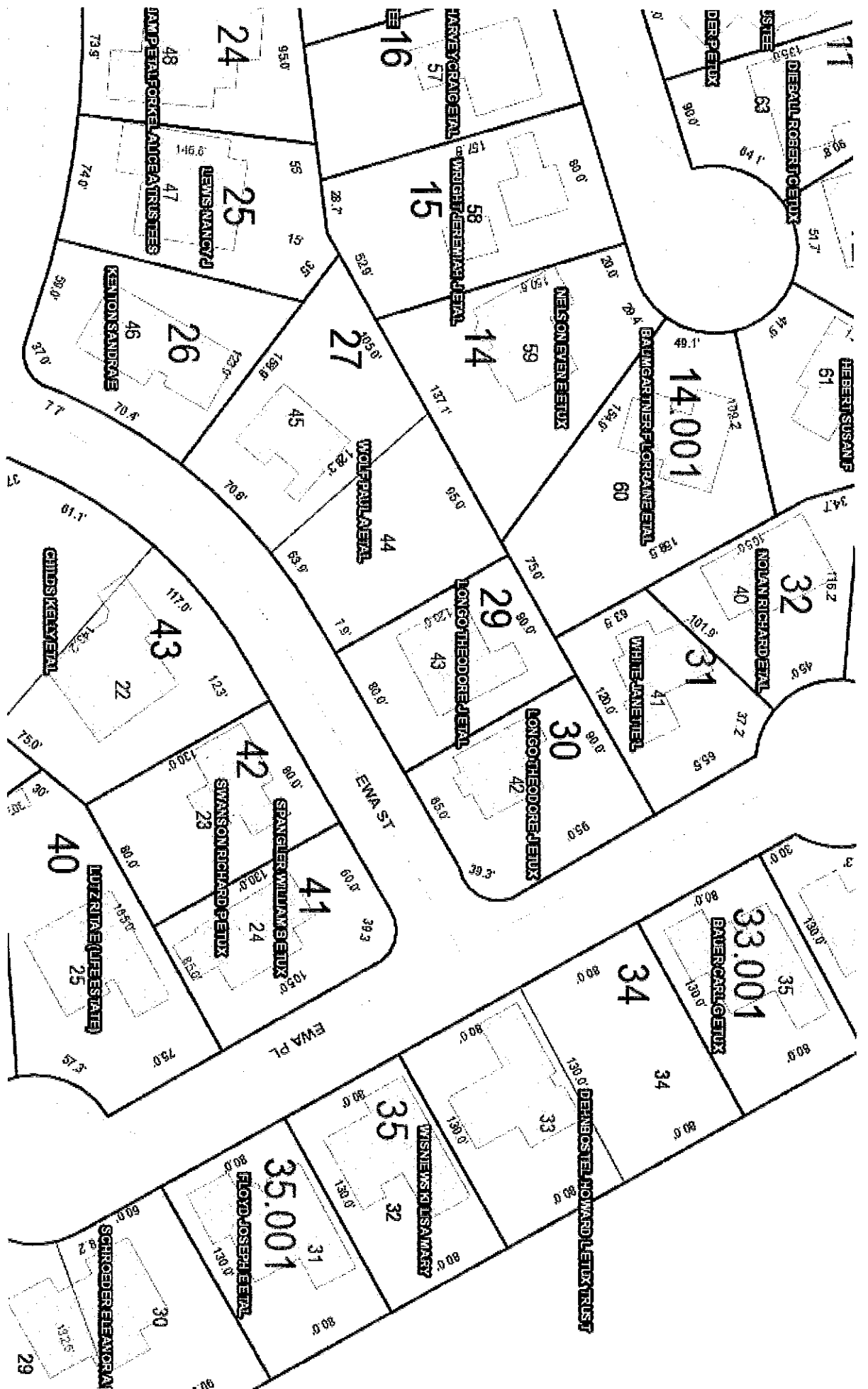
4. Would the requested variance not give the owner/applicant any special privileges or rights not shared by owners of similar properties?

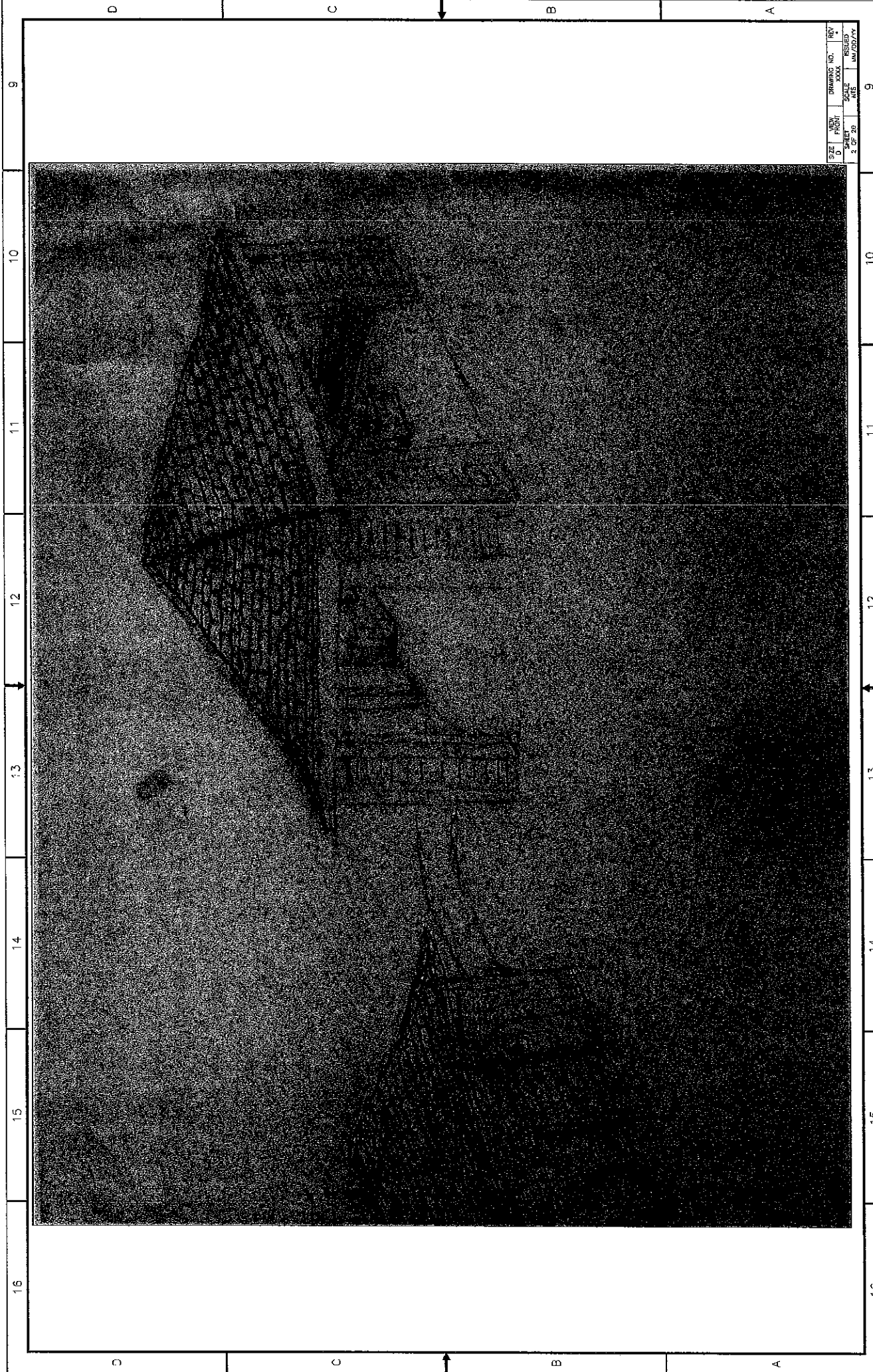
There are similar structures that I have noticed throughout Diamondhead that would be comparable to the request I am making.



PROJECT NAME AND ADDRESS				FIRM NAME AND ADDRESS				THIRD ANGLE PROJECTION				PROJECT				Ms AMY &				REVISIONS												
PROJECTNAME PROJ.HOUSENUMSTNAME PROJECTSYSTATP				FIRMNAME HOUSENUMSTNAME CITYSTATZIP				<div>ALL UNITS IN INCHES</div> <div>FRACTIONAL $\pm 1/16$</div> <div>DECIMAL $\pm .02$</div> <div>TOLERANCES $\pm .005$</div> <div>$\angle \pm 1^\circ$</div>				<div>NAME</div> <div>REV</div> <div>DATE</div>				REV		SH	ZONE	ITEM	DESCRIPTION				DATE		APPROVED CHECKED					
																1					RETRL REVIEW				MM/DD/YY							
SHEET 1 OF 20				SCALE N/A				SIZE D				VIEW FLOOR				DRAWN				T		MM/DD/YY		1								
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SIZE	VIEW	DRAWING NO.	REV.
D	FRONT	0000	0000
3 OF 20	DATE	MM/DD/YY	

AGREEMENT

Timothy A Kellar
Hancock County

THIS AGREEMENT is made and entered into on this the 21th day of October, 2015 by and between Theodore J. Longo and Amy B. Longo, (hereinafter referred to as "Owners") and DIAMONDHEAD COUNTRY CLUB AND PROPERTY OWNERS ASSOCIATION, INC., a Mississippi non-profit corporation, (hereinafter referred to as "POA").

WHEREAS, Owners are the owners of the following described contiguous lots located and situated in the Diamondhead Community, Hancock County, Mississippi:

Phase 2, Unit 3, Block 1, Lot 42

Phase 2, Unit 3, Block 1, Lot 43

WHEREAS, the residence of the Owners is located on Phase 2, Unit 3, Block 1, Lot 42, & 43, Diamondhead, which lot is one of the foregoing described contiguous lots: and

WHEREAS, all of said multiple contiguous lots are utilized by the Owners as a single homesite: and

WHEREAS, Owners desire to enter into this Agreement with the POA to contractually obligate themselves, their successors and assigns that all of said multiple contiguous lots described above shall be considered as a single lot for purposes of membership charges and assessments in accordance with Article XV of the Declarations of Restrictions, Conditions, Easements, Covenants, Agreements, Liens and Charges ("Covenants") as provided by the Resolution of the Board of Directors of the POA duly adopted on January 28, 1985, February 26, 1985, May 29, 1992, June 20, 1992, October 15, 1993, March 11, 1997 and April 20, 1999.

NOW, THEREFORE, the parties, in consideration of the agreements and covenants hereafter set forth and payment by the Owners to the POA of the fee described in paragraph 5 hereof, agree and bind themselves as follows:

1. The said multiple contiguous lots are being used or will be used as a single homesite. If not presently occupied as a homesite, a building permit must be procured within 60 sixty days and residence must be completed and ready for occupancy within (1) one year from the date of consolidation.

2. Owners and POA bind themselves, their successors and assigns, as a covenant running with the land, that said multiple contiguous lots are to be hereafter considered as a single lot, utilized by Owners as a single homesite.

3. POA agrees that said multiple contiguous lots, effective November 2015, shall be considered as a single lot for the purposes of assessments and charges as provided by Article XV of the Covenants and hereafter, the Owners, their successors and assigns, shall pay to the POA, its successors and assigns, membership assessments and charges based upon all of said multiple contiguous lots as described above being considered a single lot.

4. The Owners acknowledge for themselves, their successors and assigns, that this Agreement shall be recorded in the Land Records in the office of the Chancery Clerk of Hancock County, Mississippi, as a covenant running with the land, obligating themselves, the POA, and their respective successors and assigns to the terms and provisions hereof.

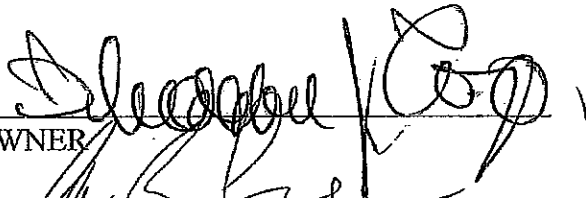
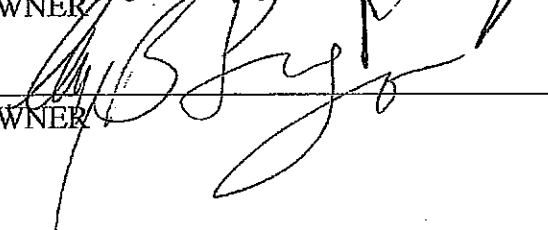
5. The POA acknowledges receipt of \$4,000.00 from the Owners to compensate the POA for its reasonable expenses in connection with this Agreement.

6. The Owners acknowledge that the POA, by entering into this Agreement, does not waive ~~any right or recourse~~ available to it, or to any other party, including, but not limited to, the ~~Architectural Committee~~, as provided by the Covenants, for any violation of the said Covenants, ~~including, but not limited to, set-backs~~. POA and the Architectural Committee retain their rights to ~~enforce violations of the Covenants~~ whether occurring prior or subsequent to the date hereof.

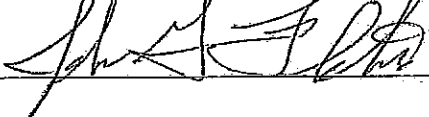
7. The parties agree and acknowledge that the rights of the holder of the above-described deed of trust, as provided by the terms and provisions of said deed of trust or applicable law, are not altered or affected by its consent to this agreement.

8. This Agreement can be dissolved in accordance with the Resolution duly adopted on August 12, 1997 by the Board of Directors of the POA.

WITNESS OUR SIGNATURES on the day and year first above written.

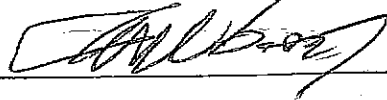

OWNER

OWNER

DIAMONDHEAD COUNTRY CLUB AND
PROPERTY OWNERS ASSOCIATION, INC.

BY: 

ITS: President

ARCHITECTURAL COMMITTEE

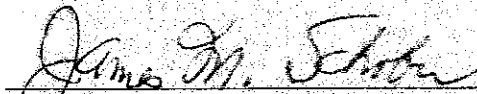
BY: 

If bounded by water, the warranty granted herein shall not extend to any part of the above described property which is tideland or coastal wetlands as defined in the Mississippi Coastal Wetlands Protection Act and this conveyance includes any natural accretion and is subject to any erosion due to the action of the elements.

The Grantors herein certify that the property hereinabove conveyed forms no part of the homestead of said Grantors.

It is agreed and understood that the taxes for the current year have been prorated as of this date on an estimated basis, and that when said taxes are actually determined, if the proration as of this date is incorrect, the parties herein agree to pay on a basis of an actual proration. All subsequent years taxes are specifically assumed by Grantees herein.

WITNESS OUR SIGNATURES, this the 01 day of June, 2015.

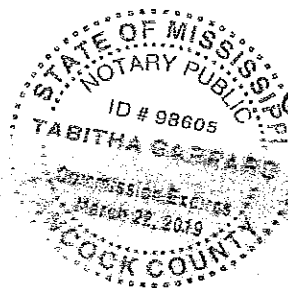

James M. Schober

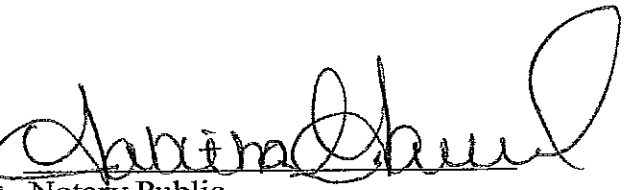

Leslie Diane Schober

State of Mississippi

County of Hancock

Personally came and appeared before me, the undersigned authority in and for the aforesaid County and State on this the 01 day of June, 2015, **James M. Schober and Leslie Diane Schober**, who acknowledged that they signed and delivered the foregoing instrument of writing on the day and year therein mentioned.




Notary Public
My Commission Expires



Hancock County
I certify this instrument was filed
06-29-2015 11:00:07 AM
and recorded in Book Book
2015 at pages 244 - 245
Heather A. Miller

Prepared By:
The Casano Law Firm, P.A.
P.A. 4370 Leisure Time Drive
Diamondhead, MS 39525
(228) 255-0035
File No: 15-0157

Return To:
The Casano Law Firm,
4370 Leisure Time Drive
Diamondhead, MS 39525
(228) 255-0035

STATE OF MISSISSIPPI
COUNTY OF **Hancock**

WARRANTY DEED

For and in consideration of the sum of Ten Dollars (\$10.00), cash in hand, paid, and other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, I/We

James M. Schober and Leslie Diane Schober, Grantor(s)
797 Ewa Street
Diamondhead, MS 39525
Phone: 228-363-2147

Do hereby sell, convey, bargain and warrant to

Theodore J. Longo and Amy B. Longo, Grantee(s)
799 Ewa St.
Diamondhead, MS 39525
Phone: 228-342-0683

As joint tenants with right of survivorship and not as tenants in common, the following described real property situated and located in **Hancock** County, Mississippi, more particularly and certainly described as follows:

Lot 43, Block 1, Unit 3, Diamondhead, Phase 2, according to the map or plat thereof on file and of record in the office of the Chancery Clerk of Hancock County, Mississippi.

Together with all and singular the rights, privileges, improvements and appurtenances to the same belonging or in any wise appertaining.

This conveyance is made subject to any and all reservations, restrictions, easements, exceptions, covenants and conditions of record, including any mineral, oil or gas reservations and any covenants or restrictions of record.

STATE OF MISSISSIPPI
COUNTY OF HANCOCK



Timothy A Kellar

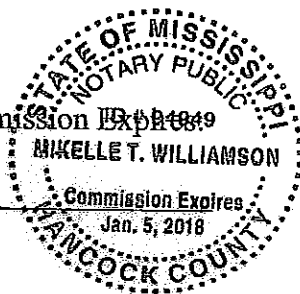
Shelia Daniels

This day, personally came and appeared before me, the undersigned authority in and for the jurisdiction aforesaid, Theodore & Amy Longo, who acknowledge to me that they signed and delivered the above and foregoing instrument on the day and in the year therein mentioned, as their own free act and deed.

GIVEN under my hand and official Seal of Office on this the 2nd day of November, 2015.

Mikelle T. Williamson
NOTARY PUBLIC

My Commission Expires:



STATE OF MISSISSIPPI
COUNTY OF HANCOCK

This day, personally came and appeared before me, the undersigned authority, John Fletcher who is the President of Diamondhead Country Club and Property Owners Association, Inc., a Mississippi corporation, who acknowledged to me that they signed and delivered the above and foregoing instrument on the day and in the year therein mentioned for and on behalf of said corporation, having been duly authorized so to do.

GIVEN under my hand and official Seal of Office on this the 20 day of November, 2015.

Veronica Varnadore
NOTARY PUBLIC

My Commission Expires:



STATE OF MISSISSIPPI
COUNTY OF HANCOCK

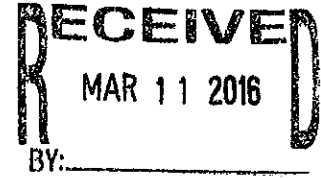
This day, personally came and appeared before me, the undersigned authority, Jerry Weber who is the Vice President of the Architectural Committee of Diamondhead Country Club and Property Owners Association, Inc., a Mississippi corporation, who acknowledged to me that they signed and delivered the above and foregoing instrument on the day and in the year therein mentioned for and on behalf of said corporation, having been duly authorized so to do.

GIVEN under my hand and official Seal of Office on this the 20 day of November, 2015.

Veronica Varnadore
NOTARY PUBLIC

My Commission Expires:

DIAMONDHEAD
COUNTRY CLUB & PROPERTY OWNERS ASSOCIATION



To: Diamondhead Planning and Zoning Commission

Cc: Ronald R. Jones, Diamondhead Building Official

FROM: Darrell Kinchen, Architectural Advisor *D.K.*

DATE: March 11, 2016

SUBJECT: Mr./Mrs. Ted and Amy Longo request for accessory structure Variance

The subject property owner located at 799 Ewa Street has requested from the city, two accessory structure variances that exceed the maximum 144 sq. ft. presently allowed.

Please be advised, Diamondhead Country Club & Property Owners Association is **OPPOSED** to these variances.

We respectfully request that the Planning and Zoning Commission deny or table this request and require that the owner follow the already established and recorded (see attached) subdivision Covenants by ascertaining an approved building permit for the structures from the Diamondhead Country Club and Property Owners Association.

If you have any questions, please do not hesitate to contact Darrell Kinchen 228-255- 1900 EXT.125

DIAMONDHEAD

COUNTRY CLUB & PROPERTY OWNERS ASSOCIATION

ARCHITECTURAL COMMITTEE, Section VI –Book AA36/Page 310

"All plans and specifications for any building, swimming pool, fence, wall or other structures whatsoever to be erected on or moved upon or to any lot, and the proposed location thereof on any lot or lots, the roofs and exterior color schemes thereof, any later changes or additions thereto after initial approval thereof, and any remodeling, reconstruction, alterations, or additions to any building or other structures on any lot shall be subject to and shall require the approval, in writing, of the Architectural Committee, as the same is from time to time composed, before any such work is to commence."